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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/444,758      | 05/19/1995  | JOHN C. HARVEY       | 5634.114            | 5569             |

21967 7590 06/19/2002

HUNTON & WILLIAMS  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

EXAMINER

MEHTA, BHAVESH M

ART UNIT PAPER NUMBER

2611

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

08/444,758

EXAMINER

ART UNIT

PAPER

32

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

This communication is responsive to the Request for Reconsideration under 37 C.F.R. § 1.111 filed August 21, 2001. The Request for Reconsideration requests withdrawal of the determination, in the Office communication mailed March 21, 2001, that certain of applicants' replies were not fully responsive to the prior Office action for failure to comply with the Administrative Requirement imposed by the Office.

In order to resolve conflicts between applicants' applications, the Administrative Requirement was imposed in this application and in certain of applicants' co-pending applications. Under the Administrative Requirement, applicants are required to:

- (1) file terminal disclaimers in each of the related co-pending applications terminally disclaiming each of the other co-pending applications;
- (2) provide an affidavit attesting to the fact that all claims in the co-pending applications have been reviewed by applicant and that no conflicting claims exists between the applications; or
- (3) resolve all conflicts between claims in the identified co-pending applications by identifying how all the claims in the instant application are distinct and separate inventions from all the claims in the identified co-pending applications.

In application Serial No. 08/470,571, applicants filed a petition under 37 C.F.R. § 1.181 requesting, inter alia, that the Commissioner order that the Administrative Requirement be withdrawn. However, as agreed upon in a telephonic interview conducted with applicants' representative on February 8, 2002, applicants have withdrawn the petition under 37 C.F.R. § 1.181 in application Serial No. 08/470,571. Further, applicants have agreed to comply with the Administrative Requirement at such time that written notification is provided that this application is otherwise in condition for allowance.

The Office recognizes that applicants have consistently asserted the Administrative Requirement to be improper and have not conceded its propriety. After a review of applicants' responses to the Administrative Requirement, the Office deems them to be a bona fide attempt to advance the application to final action. However, the issue of the propriety of the Administrative Requirement is now rendered moot by applicants' agreement to comply with the Administrative Requirement at such time that written notification is provided that this application is otherwise in condition for allowance.

In view of applicants' agreement to comply with the Administrative Requirement and applicants' timely filed Request for Reconsideration, this application remains pending. No further response to the communication mailed March 21, 2001, is required by applicants in order to avoid the abandonment of this application. An action on the merits of this application will follow this communication in due course.

Bhavesh M Mehta  
Primary Examiner  
Art Unit: 2611